

**IN THE UNITED STATES DISTRICT COURT OF ARKANSAS  
EASTERN DISTRICT OF ARKANSAS**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>V.</b>	)	<b>Case No. 4:20-CR-00288-DPM</b>
	)	
<b>MUJERA LUNG' AHO</b>	)	

**SENTENCING MEMORANDUM**

Comes Now the Defendant Mujera Lung'aho by and through his attorney Michael Kiel Kaiser of Lassiter & Cassinelli, and respectfully moves this Court to impose a sentence of 60 months of imprisonment.

**I. Introduction**

On August 23, 2023, Lung'aho pleaded guilty to one count of arson in violation of 18 U.S.C. § 844(f)(1). Lung'aho now submits this Sentencing Memorandum in support of his request that this Court sentence him to 60 months of imprisonment to be followed by a term of supervised release.

**II. 18 U.S.C. § 3553 Factors.**

18 U.S.C. §3553(a) sets out several parameters the Court must consider when deciding the appropriate sentence to impose: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to (A) reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to provide adequate deterrence to criminal conduct; (C) to protect the public from

further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

The district court should impose a sentence that is sufficient, but not greater than necessary, to comply with the purposes set forth in the statute. Lung'aho contends that the requested sentence of 60 months imprisonment will accomplish this goal.

i. The history and characteristics of the defendant.

Lung'aho was born and raised in North Little Rock, the middle of three boys born to Oscar and Wanda Lung'aho. Lung'aho attended Gibbs Magnet Elementary School; Horace Mann Magnet Middle School; and graduated from Parkview High School in 2008. Lung'aho was a strong student who also played in the school's band and was a talented member of soccer team. Lung'aho then attended Loyola University in New Orleans, UALR, and Pulaski Tech.

Wanda was a very active mother in her sons' lives, serving on school PTAs, volunteering at their schools, and being very involved with their athletic pursuits. The value of education was firmly ingrained in all three boys from a young age, and all three were good students who attended college. Lung'aho's parents taught him to stand up for what he believed was right—even if they didn't always agree on what right was—and contributed greatly to his overarching morality.

Oscar and Wanda married young. Oscar struggled with addiction issues throughout his life into Lung'aho's childhood. Lung'aho describes his early childhood as chaotic because of this. These issues only brought the three brothers closer together, and they remain very close to this day. They were all within three grades of one another, and held each other together despite the oft-chaotic situation with their father. All three share a passion for soccer. All three were talented soccer players who played competitively in high school, even spending one year at Parkview with all three there together. Lung'aho was all-State, and his younger brother John even played collegiately. All three remain avid soccer fans, and Lung'aho plays recreationally to this day.

After conquering his issues with addiction earlier in Lung'aho's life, Oscar inspired this passion for soccer in his sons, coaching their teams and spending substantial time with each of his sons honing their skills. Oscar was diagnosed with a rare form of lymphoma that was essentially un-treatable, and ultimately passed in 2018 after chemotherapy and several experimental treatments. Despite the sorrow of his illness and passing, the ordeal brought the brothers even closer together. Lung'aho is thankful to have such strong familial support as shown by the numerous letters in support appended to this memorandum.

As Lung'aho states, "I lived in the hood, but was raised away from it." Lung'aho grew up in the Holly Grove AME Church near his home in North Little

Rock. He was active in the church's youth group, choir, and band, and has maintained many of those relationships into adulthood. Although he no longer identifies as Christian, he still sees the church and the churchgoers as family, and remains close with many of them. He also regularly did maintenance work at the church as an adult. Several members of his extended church family have submitted letters in support.

Lung'aho's grandfather Elihu Brown served in the United States Navy during the Korean War and experienced a lot of racism while in the military despite serving valiantly in combat. Lung'aho's grandfather is interred along with his grandmother at Little Rock's National Cemetery. Lung'aho went there often as a child, and considered the place to be hallowed ground. It was only after the murder of George Floyd and the subsequent nationwide reckoning surrounding Confederate memorials that Lung'aho learned there was a massive obelisk memorializing the Confederacy at the same cemetery as his grandparents, one which stands there to this day.

Lung'aho grew up mere blocks from the NLRPD's Rose City Substation. When Lung'aho was first learning to drive around age 16 or 17, he was stopped by police for the first time for driving without his headlights on. He was not trying to evade anything; rather, he was a teenager just learning how to drive who didn't realize his headlights were not automatic. Lung'aho was commanded to exit the

car, frisked, and pushed onto the hood of his car just to be told his headlamps were off. This was his first personal experience with police, and it confirmed the negative feelings he had felt toward police after seeing them mace and taser his father when he was as a young child.

Growing up, the local police were reactionary and largely ineffective. Lung'aho described the substation as providing a false sense of security that actually made him feel less safe. He did not see it as enhancing his safety, but rather a threat to it. When there was an uptick in shootings, there would be more police patrolling the streets. This did nothing to stop the shootings—which occurred at essentially their same frequency, including two very close to Lung'aho's family home—but instead subjected more innocent civilians to being stopped and searched by police for traffic violations and other low-level offenses.

Lung'aho was diagnosed with anxiety and PTSD through the psychological evaluation he was required to complete as part of his initial pretrial release in his case, but has had virtually no treatment to address these issues. The PTSD almost certainly arose from dealings with his father as a young child, with police throughout his adolescence and adulthood, and with his father's difficult passing. Lung'aho is eager to explore and address these issues in treatment. He is keenly aware that his viewpoints have been affected by his trauma, and he is eager to learn

how they have affected him in other ways throughout his entire life and work to address them.

Lung'aho's activism really kicked into gear following the killing of Michael Brown in Ferguson, Missouri in 2014. This marked the first time Lung'aho sat down with other people to discuss how to address the killings of people of color by police the inequity within the criminal-justice system more broadly. He and others would meet often at codefendant Dawn Jeffrey's home, and ultimately pooled resources to run a backpack and school-supply drive for local children. The group even reached out to and met with the local ACLU, but nothing serious came of it. Lung'aho then volunteered for a Little Rock City Board candidate's campaign in 2018 (where all incumbents won reelection).

Lung'aho experienced feelings of anger following his father's passing after a battle with a rare form of lymphoma in 2018. Lung'aho and his mother were his father's primary caretakers during this tragic time. Shortly after Oscar's passing, Bradley Blackshire was killed by a Little Rock police officer in February 2019. Both Jeffrey and Lung'aho jumped right back into local activism. Lung'aho personally attended the Little Rock Civil Service Commission meeting reviewing the officer's termination for killing Blackshire, and this proved very concerning to Lung'aho. The officer in question was subsequently reinstated onto the force. In response, Jeffrey and Lung'aho posted warning posters around Little Rock warning

community members about this particular officer and letting people know that he was still on the force.

While Blackshire's death was the catalyst for Lung'aho's deeper involvement in activism, George Floyd's murder in May 2021 was the final straw. There was absolutely no justification for Floyd's heinous strangulation, and this video of his murder showed all the things Lung'aho had been protesting against more clearly than anything Lung'aho had ever seen.

Lung'aho attended City Board meetings, tried to work to educate community members, and frequently lobbied his various elected officials. But the reality that he grew up with and that he was seeing on the news did not seem to change; rather, things seemed to be getting worse. Lung'aho felt advocacy through traditional means was not working and could not work. The tumultuous nature of this unique time in recent American history only pushed Lung'aho further. Radical action was the only way to be heard, to let the system know to: "Stop killing us." The goal was not to spark conflict with the State or to retaliate against any officer personally, but rather an attack on the institution of the American police structure via its property specifically.

Lung'aho is an artist, and his art is inexorably tied to his activism. He has done creative writing and written poetry since high school, but only began sharing it with other people around 2015 when he began putting on and performing at

poetry and spoken-word shows and workshops. He shared his work at shows around the country. He traveled to different barbershops around the community to share uplifting poetry and writing. Lung'aho has kept up his writing while in custody, and hopes to be published soon. Lung'aho is also passionate about animals and gardening. The character letters provided by family and friends provide further insight into Lung'aho's passions and true character.

Lung'aho no longer espouses such radical action, primarily because of the traumas and indignities he has faced while in pretrial detention. Trying to combat the criminal-justice system from the outside just pulled him into it, where he gets to experience its injustices firsthand. Lung'aho has been incarcerated in the Greene County Jail in pretrial detention for more than 27 months and has been to the hole about 25 times spanning about eight months total, including for things as petty as:

- ☐ Having a blanket in the dayroom;
- ☐ Possession of contraband for having an extra towel;
- ☐ Telling an officer to "chill out;"
- ☐ Being in another person's cell; and
- ☐ Complaining about receiving the wrong trays not in accordance with his medical food plan.

He has had numerous items of property taken or destroyed during shakedowns despite being compliant with the facility's rules, and has never received due



process in accordance with the facility's own rules, let alone constitutional requirements. He has received improper food several times, causing severe allergic reactions. Beyond that, he was staring down the barrel of three 30-to-life sentences, which would have amounted to the functional equivalent of a life sentence. Despite no longer facing such sentences, the psychological trauma from actually facing a life sentence for a substantial period of time for a non-violent property offense will never be erased.

Lung'aho exudes passion for the things he cares about. As friend Ashley Jeffrey writes: "Whether it was on the soccer field, reciting a beautiful poem, or pleading for justice in our communities—I've seen him put passion into all that does." Lung'aho remains committed to non-violent pathways of protest. He admits to and is fully prepared to accept the consequences of his actions, but makes no apology for his beliefs or his actions. His only regret is that his actions have been exploited for political gain by proponents of the very system he was protesting, and that there has been a noticeable chilling effect in terms of local protests following his arrest and conviction.<sup>1</sup>

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<sup>1</sup> See Aaron M. Cantu & Kandist Mallett, *How to Crush a Movement for Social Justice*, THE NATION, Nov. 2022, available at <https://www.thenation.com/article/society/movement-racial-justice-police-arkansas/>; <https://m4bl.org/wp-content/uploads/2021/08/Struggle-For-Power-The-Ongoing-Persecution-of-Black-Movement-by-the-U.S.-Government.pdf>.

Lung'aho has a diverse array of previous employment, and his resume is attached as an exhibit for this Court's review. Lung'aho also has extensive support from family and friends, and will have a vast support network while incarcerated and immediately upon his release. *See attached character letters.*

ii. The nature and circumstances of the offense.

The offense was not a crime of violence. *United States v. Lung'aho*, 72 F.4th 845 (8th Cir. 2023). No one was harmed, and no one was in danger of being harmed. Lung'aho deliberately targeted a police vehicle in an unoccupied parking lot late at night to avoid any potential harm to people.

This factor weighs in favor of sentencing Lung'aho to the requested 60 months. This was a non-violent property crime committed by someone with minimal criminal history during one of the most turbulent times in our nation's recent history.

Lung'aho is a very sharp individual, and will make the most of his time in the Bureau of Prisons in terms of improving himself and making himself more readily employable upon release. Lung'aho has been actively involved in all aspects of his case strategy, and has a sharp legal mind and clear passion and interest in the law generally.

- iii. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense.

Any sentence Lung'aho receives will be substantially greater than sentences for defendants in this and similar cases. Lung'aho's codefendant and friend Dawn Jeffrey was sentenced to just under 18 months imprisonment. Lung'aho has already served substantially more time in pretrial detention, and will receive a sentence nearly 3.5x greater than Jeffrey's even if this Court imposes the requested 60-month sentence.

Two New York lawyers convicted of throwing a Molotov cocktail into the window of a police vehicle in New York City during a protest on May 30, 2021 were sentenced to 12 months and 15 months of imprisonment.<sup>2</sup> A group of people charged for burning a police vehicle in late May 2020 in Philadelphia received sentences of 12, 30, 46, and 61 months.<sup>3</sup> The one defendant who received the 61-month sentence had a prior conviction for involuntary manslaughter, and was also convicted of being a felon in possession of a gun.

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<sup>2</sup> Rebecca Davis O'Brien & Hurubie Meko, *During George Floyd Protests, 2 Lawyers' Futures Went Up in Flames*, N.Y. TIMES, Jan. 26, 2023, available at <https://www.nytimes.com/2023/01/26/nyregion/lawyers-sentenced-molotov-police-car.html#:~:text=police%2Dcar.html-,During%20George%20Floyd%20Protests%2C%20%20Lawyers'%20Futures%20Went%20Up%20in,their%20licenses%20to%20practice%20law.>

<sup>3</sup> Chris Palmer, *A Philly man will serve five years in federal prison for the torching of a cop car during racial justice protests*, PHILADELPHIA INQUIRER, Apr. 3, 2023, available at <https://www.inquirer.com/news/khalif-miller-philly-protests-prison-george-floyd-bill-mcswain-20230403.html#:~:text=A%20Philly%20man%20will%20serve,car%20during%20racial%20justice%20protests.>

Lung'aho was and remains a powerless person who was doing the only thing he thought was within his power to show his pain and anguish with the system. A sentence of 60 months of imprisonment followed by supervised release is more than sufficient to promote respect for the law and provide just punishment in this case.

- iv. The requested sentence will provide adequate deterrence to criminal conduct.

A sentence of 60 months of imprisonment is sufficient to deter criminal conduct in this case. Anyone who sees such a sentence will know that the Eastern District of Arkansas charges and punishes those that attempt to burn police vehicles severely, much more so than in other jurisdictions around the country. At this point, the only defendants of the five charged in this case who have served any time are the African-American ones and virtually all of the unindicted co-conspirators are white. The United States opposed the pretrial release of only the African-American codefendants, including Lung'aho. This case will end up providing a stark example of the very injustices Mr. Lung'aho has been protesting for years.

Such a sentence would provide adequate deterrence, specifically as to Lung'aho for a significant period of time, and more generally to anyone considering any sort of involvement with burning police vehicles within this district.

- v. The requested sentence will protect the public from potential future crimes of Lung'aho.

The requested sentence of 60 months will protect the public from any future crimes of Lung'aho. The latter portion of 2020 was a uniquely turbulent time in this nation's history, and Lung'aho's actions are reflective of it. Lung'aho has been adequately deterred from similar conduct by the numerous indignities he has faced in more than 27 months in pretrial detention. Lung'aho is eager to return to his family so that he may move on with his life in a positive and productive way and return to his work in the community to uplift and educate. The requested sentence is sufficient accordingly.

### **CONCLUSION**

For the foregoing reasons, Mr. Lung'aho respectfully requests that this Court impose a sentence of 60 months of imprisonment.

WHEREFORE, Mujera Lung'aho respectfully requests this Court sentence him to the requested punishment.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 13, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to AUSA John Ray White.

Michael Kiel Kaiser

MICHAEL KIEL KAISER